



April 2008

The Honourable Gene Zwozdesky
Minister of Aboriginal Relations
203 Legislature Building
10800 - 97 Avenue
Edmonton, Alberta
T5K 2B6

Dear Honourable Minister:

I am pleased to present you with the *fifth* Annual Report of the activities of the Office of the Métis Settlements Ombudsman.

This report is submitted in compliance with Alberta Regulation 116/2007, *Métis Settlements Act*, Métis Settlements Ombudsman Regulation 12(1)(a), covering the period April 1, 2007, through March 31, 2008.

Original Signed by:
Gary Jones
Alberta Métis Settlements Ombudsman

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Message from Gary Jones, Alberta Métis Settlements Ombudsman



I will soon celebrate the first anniversary of my appointment as Métis Settlement Ombudsman (MSO) by the Honourable Guy Boutilier, Minister of International, Intergovernmental and Aboriginal Relations. There have been many changes since our last Annual Report was published. Clearly, the most important development for our Office was the passing of the long awaited *Métis Settlements Ombudsman Regulation 116/2007* pursuant to the *Métis Settlements Act*. The new Regulations entrench the Office of the Métis Settlements Ombudsman in provincial legislation.

There have been several other important events in the past year, including Settlement elections on October 1, 2007 and the Provincial elections held on March 3, 2008. Following the Provincial election, Premier Stelmach acknowledged the significant role Aboriginal people play in Alberta by creating a Ministry devoted to Aboriginal Relations and by appointing the Honourable Gene Zwozdesky to head up that Ministry. I look forward to working cooperatively with the newly elected Métis Settlement Councils and the new Minister.

Fortunately, the core group of experienced MSO staff has been retained, maintaining the stability of the Office and making my job much easier. Two new staff members have joined the team to help with the overwhelming amount of work. At present the MSO team consists of six staff – five of which are Métis, including two Settlement members. The combination of previous investigative experience, administrative background, and sensitivity to the Settlement culture creates a solid base from which to address the issues brought forward to this Office.

A significant number of complaints received by the MSO Office this year relate to the professional conduct of Settlement Councillors and the fairness surrounding employment on the Settlements. In our attempt to deal with these complaints by Settlement members, our Office has unfortunately met with an adversarial approach by some Councils and Administrations, challenging our mandate and authority rather than focusing on resolving the specific problems. Suspicions are heightened when there is reluctance by Councils or Administration to provide key information requested or when promises made to MSO Advisors are not fulfilled. Complainants become frustrated when allegations or disputes remain unresolved for extended periods of time, as “*justice delayed is justice denied.*”

Clearly some Settlement Councillors see the importance of the Settlements moving forward towards open and transparent governance and therefore support the purpose of an Ombudsman's office. The Settlements already have many excellent Policies and Bylaws in place. It is merely our mandate, when complaints are brought to our attention, to ensure that those Policies and Bylaws are either being adhered to or to make recommendations for change to have a more efficient and professional administration of those Policies and Bylaws.

Every Settlement election year our Office receives calls alleging election nomination irregularities and improper voting procedures. This Office has no jurisdiction over Settlement Elections; they are governed by the *Local Authorities Election Act* and the *Métis Settlements Act*. At this time there is no Métis Settlements Agency with jurisdiction to look into election concerns. Some of the complaints received allege Criminal actions such as the swearing of *false affidavits*. When criminal allegations are made to our Office, or *investigations* we are involved in reveal evidence of possible criminal actions, our Office is morally obligated to turn these matters over to the Royal Canadian Mounted Police (RCMP).

Another class of complaints involves the crossover of Governance into Administration. This occurs when Councillors speak directly to staff without the Administrator present and expect staff to carry out their instructions. The activities of Settlement staff are the sole responsibility of the Administrator. The only contact between Council and the Administration should be through the Administrator. **Governance** is "*the development of policy objectives for the benefit of all Settlement members*" and **Administration** is "*[those] hired to get the job done.*"

Every year the MSO Annual Report addresses the ongoing practice within our office to review how we do our jobs, if our administrative practices are working, and what areas require change to operate more effectively and efficiently. This year we had to address the staff shortage problem and, as I mentioned earlier, we hired two new staff: a new Advisor and a new Administrative Assistant. With their help we are working hard to catch up on our backlog of files. We have also revisited some of the documents used in the office such as the *Administrative Fairness Checklist*, *Conflict of Interest Checklist*, and our *Complaint Process Flowchart*. We have attempted to make the documents easier to read and understand. These documents have been incorporated into this year's Annual Report.

I look forward to what the next year will bring with the help and support of my dedicated and experienced team and the newly elected officials both at the Settlement and Provincial levels.

Original Signed by:
Gary Jones

Introduction to Staff

The Office of the Métis Settlements Ombudsman (MSO) has been operating since April of 2003. Our goal is to provide exceptional service to the members, Councils and staff of the eight Alberta Métis Settlements.

Staff members as of March 31, 2008:



Left to right:

Bill Glover, Advisor
Danielle Cardinal, Advisor
Chuck Moberly-McBurney, Senior Advisor
Terri Dorfman, Office Administrator
Gary Jones, Métis Settlements Ombudsman
Jacqueline Bellerose, Administrative Assistant

Supplementary Support Staff




Marion Truax, Contractor ~ Financial/Auditor

Marion's accounting background and New Views accounting software knowledge has benefited the Office of the MSO in performing audits of the Settlement accounting records as well as providing Simply Accounting support for the financial operations of the MSO.

Carolyn's previous experience with the Provincial Ombudsman's Office has been an asset to the Office with the presentation of the MSO Annual Reports as well as the preparation for the Annual MSO Christmas Open Houses. She provides administrative assistance on a project basis.



Carolyn Woudstra, Contractor ~ Administrative Support



Mentoring Program

The purpose of the MSO Mentoring Program is to educate Settlement members on the principles of administrative fairness and conflict of interest, as well as to provide a working understanding of the review/investigation process. The MSO Office benefits from the experience and values the input and the shared knowledge from the Settlement perspective. The Mentoring student can, in turn, share information about the Office of the MSO with other Settlement members.

Criteria for the Summer Student Position/Mentoring Program require that the applicant must be either a full-time student attending a University or Community College, or between semesters, and/or recently graduated.

Response to the 2007 MSO Summer Student Mentoring Program advertisement was unfortunately not successful – there were no Settlement applicants. Previous Mentoring Programs were successful in that they brought us Danielle Cardinal, 2005 Summer Student, presently a MSO Advisor, and Jacqueline Bellerose, 2003 Mentoring Position, subsequent 2005-2006 Junior Advisor, and currently Administrative Assistant (term position).

The MSO has a small staff with a large workload. It is crucial we have staff that is multitalented to accomplish our mandate. We are pleased this program has brought us two capable employees.



Staff Training, Conferences and Presentations

Staff took part in the following meetings and presentations in 2007/08:

Training and Conferences:

- ❖ International Ombudsman Association (IOA) Conference - Montreal
- ❖ United States Ombudsman Association (USOA) Conference – Anchorage, Alaska
- ❖ Investigative Interviewing/Statements Course – Edmonton

Presentations:

- ❖ Hosted Grade 5 Class – Gift Lake School
- ❖ Freedom of Information and Protection of Privacy (FOIP) Presentation to Gift Lake Métis Settlement Staff
- ❖ Métis Settlements General Council New Councillor Workshop
- ❖ Métis Settlements Appeal Tribunal Staff & New Tribunal Orientation

Invitations to Participate in Various Meetings and Social Functions:

- ❖ Community Justice Program and Family Violence Program Workshop– Fishing Lake Métis Settlement
- ❖ Buffalo Lake Métis Settlement Housing Task Force Committee General Meeting
- ❖ Métis Settlements General Council Golf Tournament
- ❖ Fishing Lake Métis Settlement Golf Tournament
- ❖ Peavine Métis Settlement Sod Turning Ceremony for new Community Facilities
- ❖ International, Intergovernmental and Aboriginal Relations 1st Annual Golf Tournament
- ❖ Métis Settlements Appeal Tribunal Christmas Open House
- ❖ Métis Settlements General Council Christmas Party
- ❖ Buffalo Lake Métis Settlement Seniors Christmas Party

Memorable Events at the Office of the MSO

Gift Lake School Field Trip

Gift Lake School's Grade 5 class came to Edmonton on a field trip. One of their visits was to the MSO Office.

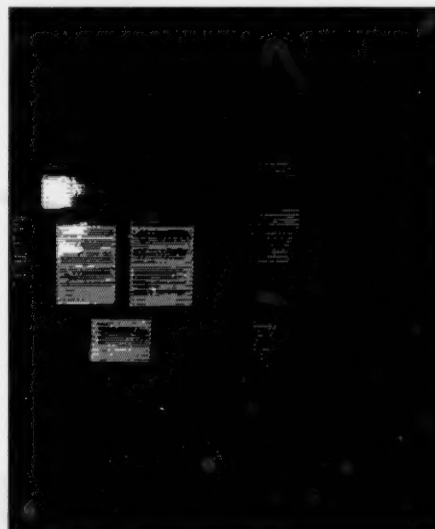


Chuck Moberly-McBurney, Danielle Cardinal and Gary Jones

General Council Golf Tournament

The Office of the MSO was invited to participate in the Annual General Council Golf Tournament.

This is the fourth year the MSO has sponsored a \$5,000 "hole in one."



Community Justice Program and Family Violence Program Workshop

Danielle Cardinal represented the Office of the MSO at the Community Justice Program and Family Violence Program Workshop at Fishing Lake Métis Settlement.

Background

Concerns had been raised in the past about the management and leadership of Métis Settlements. A 1999 Métis Settlements Appeal Tribunal Task Force looked into this issue and recommended an ombudsman-like function be created for the Alberta Métis Settlements. This was later supported by a feasibility study. The majority of Métis Settlement members and elders attending community consultation meetings supported this recommendation.

The Office of the Métis Settlements Ombudsman (MSO) was created in 2003 to provide an independent and impartial place to take complaints about Settlements' management or leadership. It also exists to identify unfair or unjust complaints made against the Councils and staff.

Alberta's Minister responsible for Aboriginal Relations appoints the MSO based on the recommendation of a selection committee. The Minister delegates the MSO to receive complaints and to appoint inspectors and investigators as needed. The individuals appointed by the MSO have the authority to conduct independent inspections or investigations, with the powers of a Commissioner, under the Alberta *Public Inquiries Act*.

Mission Statement

The mission of the Métis Settlements Ombudsman (MSO) is to promote the rights and responsibilities of Métis Settlement Councils, staff, entities, and members, through inspections, investigations, and recommendations.

Guiding Principles

The mission will be accomplished utilizing the principles of *administrative fairness* and *conflict of interest* guidelines, promoting ethical leadership. (In order to better understand the principles of **Administrative Fairness** and **Conflict of Interest**, checklists have been developed – please refer to Appendix D and Appendix E.)

Objectives


By authority of a Ministerial Delegation, the Métis Settlements Ombudsman:

- ✓ will **assist** Settlement members and Councils to understand the concepts of *administrative fairness* and *conflict of interest*.
- ✓ will **promote** appropriate standards for the delivery of Settlement services.
- ✓ will **accept** complaints from Settlement members who feel that an administrative error or injustice has occurred in their dealings with a Métis Settlement Council, staff, or a Settlement entity.
- ✓ will **accept** complaints from Settlement members who feel that a Métis Settlement Council, an individual Councillor, staff member, or an employee of a Settlement entity has been involved in a *conflict of interest*.
- ✓ will **identify** frivolous, vexatious, or unjust complaints against members of a Métis Settlement Council, staff, or an employee of a Settlement entity.
- ✓ may **conduct** an investigation/inspection where a review of the complaint identifies sufficient evidence to indicate an administrative error or injustice may have occurred in which a Council, Councillor, staff member or an employee of a Settlement entity has acted in a real or perceived *conflict of interest*.
- ✓ may **inspect/investigate** *administrative fairness* or *conflict of interest* issues under the auspices of an 'Ombudsman's Own Initiative.'
- ✓ will **communicate** the results of an inspection/investigation in any fashion the MSO deems to be appropriate, including recommendations to resolve a specific complaint or to improve a service delivery system.
- ✓ will **advocate** for all recommendation(s) made and will **track** implementation steps.

The Métis Settlements Ombudsman:

- ✓ cannot accept complaints about issues which occurred before March 31, 2002.
- ✓ may insist that all appeals available to a complainant be completed before the MSO can become involved.
- ✓ is guided by the provisions of Section 171-175 of the *Métis Settlements Act* and the Métis Settlements Ombudsman Regulation (Alberta Regulation 116/2007).

Revised: February 2008



Complaint Process

Investigation and Resolution

It is the Métis Settlements Ombudsman's (MSO) job to hear complaints and concerns and to deal with them in the most appropriate way. When a complaint is received, the MSO will determine if there is enough evidence to start an investigation. If a *review* discovers that an error or irregularity occurred, the MSO works informally with people to try to resolve the concern and to prevent the same error from happening again.

Concerns that cannot be resolved through discussion or mediation are investigated. The results of investigations may be made public.

Making a Complaint

Anyone may make a complaint to the MSO. However, an individual who has a complaint must first try to resolve the matter him/herself. This includes going through any formal appeal processes that might exist with Métis Settlements. Anyone who remains dissatisfied after appeals are heard is welcome to bring a complaint to the MSO.

There is no fee for filing a complaint.

Complaint Criteria

For a complaint to be considered:

- The issue complained about must have occurred on or after March 31, 2002. Occasionally, an issue that occurred prior to March 31, 2002, may be reviewed if action (e.g. a decision) on a complaint was taken after March 31, 2002.
- MSO Complaint Forms must be completed, including the name, address, telephone number and signature of the person making the complaint.
- The complaint must relate to the activities or business of an Alberta Métis Settlement Council, an individual Métis Settlement Councillor or staff.
- The complaint must involve alleged mismanagement, an unfair practice or a conflict of interest.
- The complaint must be based on facts or evidence.

Four basic steps have been developed for the MSO process of looking at a complaint:

Further Inquiries: When a complaint has been received, but there is not enough information to proceed, MSO staff contact the person who submitted the complaint to clarify the issue(s) or to make sure the matter is within the jurisdiction of the MSO.

Review: Once the MSO is satisfied the issue is within the jurisdiction of the MSO and the complaint appears to have merit, a *review* is authorized. The advisor/investigator may then contact the Council, staff or Settlement entity to seek help in determining if there is evidence to suggest an error or inappropriate activity occurred. The advisor/investigator then submits recommendations to the MSO based on the findings. That recommendation might be: to close the file, as there is a lack of evidence to support the complaint; to enter into a formal inspection or investigation; or to suggest any other action the advisor/investigator may feel is appropriate. Mediation techniques might also be used during this stage to resolve the complaint.

Investigation/Inspection: If there is enough evidence to suggest an error occurred, or a Council, staff member or Settlement entity has acted inappropriately, and it cannot be resolved through mediation, a formal investigation or inspection is authorized under the *Métis Settlements Act* (MSA). Once appointed under the MSA, an investigator has the same power and authority as a Commissioner under the *Public Inquiries Act*. Normally, the person who completed the *review* of the initial complaint would not be appointed as an investigator.

Formal Report: If the investigation supports the findings of the *review*, mediation would be attempted once again and a *formal report* would be submitted to the MSO with appropriate recommendations. Any person who might be negatively affected by a *formal report* is given the opportunity to present evidence or argument to the MSO as to why a recommendation(s) should not be accepted.

In cases where MSO recommendations are ignored, or there is a refusal to take action, the MSO may refer the matter to the Minister of Aboriginal Relations who can invoke Section 176 of the *Métis Settlement Act*:

“Improper management

176(1) If the Minister considers that the affairs of a settlement are managed in an irregular, improper or improvident manner, the Minister may, by order,

(a) dismiss the settlement council or particular councillors or an employee or official of the settlement, or

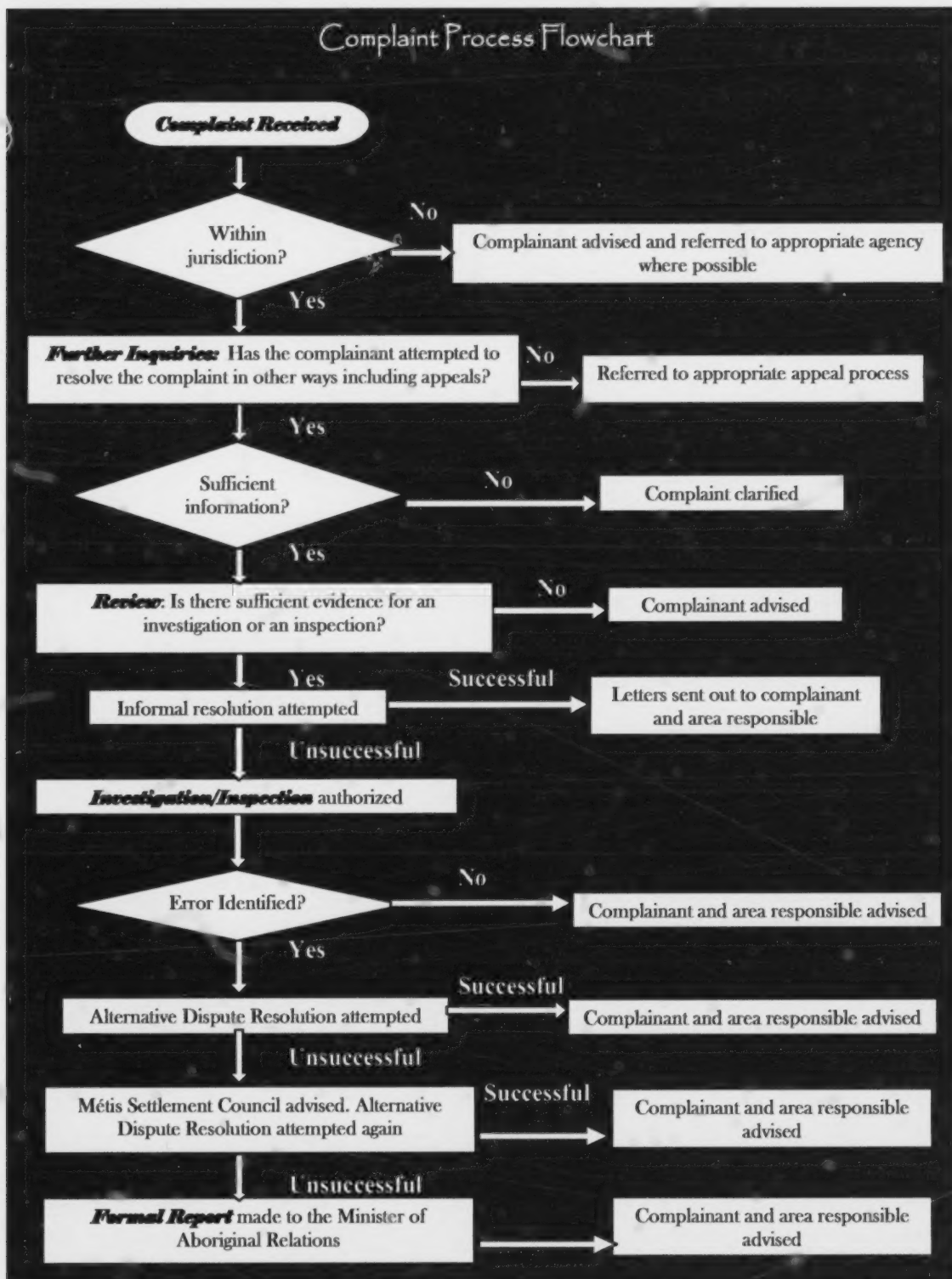
(b) direct the settlement council or an employee or official of the settlement to take any action that the Minister considers proper in the circumstances.

(2) If a direction under subsection (1)(b) is not carried out, the Minister may, by order, dismiss the settlement council or a particular councillor, or an employee or official of the settlement.

(3) An order of the Minister under subsection (1)(a) or (2) must be published in The Alberta Gazette.”

1990 cM-14.3 s176

Complaint Process Flowchart



Statistical Information

The Office of the MSO keeps internal, confidential records on the complaints it receives. Statistics are kept to help identify trends and/or areas of concern and to provide direction and focus for the Office. The following chart shows the number of complaints received according to Settlement:

Settlement:	Number of Complaints 2006/07	Ombudsman's Own Initiative 2006/07	Number of Complaints 2007/08	Ombudsman's Own Initiative 2007/08
Buffalo Lake	53	29	30	2
East Prairie	47	13	30	7
Elizabeth	17	1	8	0
Fishing Lake	25	0	26	6
Gift Lake	21	2	41	12
Kikino	12	0	12	2
Paddle Prairie	26	0	33	8
Peavine	23	3	37	7
Other	1	0	4	0
TOTAL:	225	48	221	44

Active files for the 2007/08 fiscal year:

Files Brought Forward April 1, 2007	224	
Complaints/Ombudsman's Own Initiative 2007/08	265	
Total:		489
Resolution of Jurisdictional Complaints/ Ombudsman's Own Initiative:	232	
Non-Jurisdictional Complaints	31	
Requests for Information	31	
Total Complaints Resolved:		294
Total Active Files as at April 1, 2008		195

The total complaints received in 2007/08 can be summarized as follows:

Complaints Received - April 1, 2007, to March 31, 2008

➤ Jurisdictional Complaints/Ombudsman's Own Initiative	209
➤ Non-Jurisdictional Complaints	30
➤ Requests for Information *	26
TOTAL	265

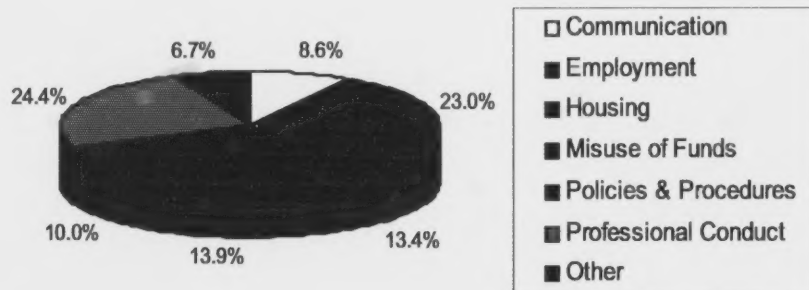
* Councillors and staff are continuing to use this Office as a resource for information and advice *prior* to making decisions.

Complaints are broken down into **jurisdictional** (those which the MSO has the authority to look into) and **non-jurisdictional** (those outside MSO authority). Jurisdictional complaints fall within two categories: *Administrative Fairness* or *Conflict of Interest*.

Jurisdictional Complaints/Ombudsman's Own Initiative 2007/08

<u>Complaint Categories:</u>	<u>Complaints</u>		<u>Ombudsman's Own Initiative Areas of Concern</u>	
	<u>Administrative Fairness</u>	<u>Conflict of Interest</u>	<u>Administrative Fairness</u>	<u>Conflict of Interest</u>
Communication	13	0	5	0
Employment	31	7	7	3
Housing	15	8	2	3
Misuse of Funds	20	3	6	0
Policies & Procedures	16	3	1	1
Professional Conduct	27	10	11	3
Other	12	0	2	0
Subtotal	<u>134</u>	<u>31</u>	<u>34</u>	<u>10</u>
TOTAL	209			

*Last year, 39% of the total Conflict of Interest complaints were regarding nepotism (favouritism shown to family members). This year, the total has risen to 66%. This is a significant increase.



The MSO makes every attempt to bring about a positive conclusion (for both the complainant and for the party being complained about) through mediation and recommendations.

Jurisdictional complaints were resolved as follows in 2007/08:

Resolution of Jurisdictional Complaints/Ombudsman's Own Initiative		
Files Closed 2007/08		
<u>Disposition:</u>	<u>Administrative Fairness</u>	<u>Conflict of Interest</u>
Oral complaint/no formal complaint submitted	69	15
Inquiry made/referral given/resolution facilitated	7	0
Reviewed: Insufficient evidence to warrant inspection and/or investigation	43	23
Reviewed: Sufficient evidence identified and resolved through:		
-mediation/arbitration	1	0
-complaint withdrawn	8	1
-informal resolution successful	23	9
-recommendation made to Council; Council's response pending	4	2
Inspection/Investigation: insufficient evidence	2	2
Inspection/Investigation: recommendation made/resolved through:		
-mediation/arbitration	3	0
-complaint withdrawn	0	0
-recommendation accepted and implemented	6	2
-recommendation made to Council; Council's response pending	9	3
Formal report to the Minister		1

**** There has been considerable resistance to this Office in the past year by some Settlement Councils and Administrations, which has made the review/investigation of complaints difficult to bring to conclusion.***



Case Summaries

Every effort is made by this Office to avoid taking issues to formal investigation. The goal of the MSO Office is to resolve issues through a cooperative review; however, if appropriate resolution cannot be achieved, a formal investigation may be authorized by the MSO.

The following case summaries provide a sampling of the types of complaints the MSO receives.
Every attempt has been made to protect the privacy of the individuals involved.

Non-Settlement Members Swearing to False Affidavits

The complainant in this case was concerned that a number of people swore to *false affidavits* stating that they were resident Settlement members, when they were not, in order to vote in the election.

Further inquiries into this complaint revealed that there were other issues with regard to the Settlement membership list and how it relates to *Section 234 (1) (b)* of the *Métis Settlements Act (MSA)*, as well as the *Settlement Leave of Absence and Residency Bylaw*. More specifically, that the persons who allegedly swore *false affidavits* stating that they were members, were in fact not members according to the Settlement's *Leave of Absence and Residency Bylaw* because they had not applied for a leave of absence. The Office of the MSO does not have jurisdiction over membership issues and referred this part of the complaint to the *Métis Settlements Appeal Tribunal*.

The second aspect of this complaint worth mentioning is the fact that it is a *criminal offense* to swear to a *false affidavit*; therefore, this information was forwarded by the MSO to the local RCMP as the MSO does not have jurisdiction over such matters.

Double Dipping by a Staff Member

It was alleged that a Settlement staff member was "double dipping." Allegedly, the staff member received full salary and travel from the Settlement office to attend an "All Directors" meeting off of the Settlement as well as an honorarium and travel costs from a separate Settlement Association to attend a meeting on their behalf on the same day in another town.

A **review** was conducted into the allegation and the Settlement Administration promptly provided the proper expense account information. These documents revealed that the staff member did in fact receive funds from both organizations to attend meetings in different towns on the same day. It was also found that the staff member did not attend one of the meetings.

It was the practice of the Settlement Association, for which the honorarium was paid, to pay out honorarium and travel expenses in advance of the meetings. If the Board member did not attend, he or she was expected to keep the cheque and not accept an honorarium for the upcoming meeting. This practice was found to be confusing, difficult to monitor, and subject to abuse.

Although it is poor accounting practice to allocate monies in this manner, the Board member was found to have inappropriately received money to which the member was not entitled and had an obligation to repay those monies. It was found that the Board member did pay back the travel but still owed the honorarium. The MSO recommended that the Board address the issue of repayment at the next duly called meeting.

Council Refusing Application to Sit on a Board

A complaint was received by this office from a non-member who was denied the opportunity to sit on a Board to represent the Settlement although the complainant was the only applicant. The reason given was that Council did not like being represented by a non-Métis – despite the fact that the complainant was active in the community, working for the Settlement, married to a Métis Settlement member, and raising Métis children. The posting for the position *did not* stipulate that the applicant *had to be Métis* or a *Settlement member*. Council decided to repost for the position outlining that the applicant be Métis and a Settlement member.

The *review* found that the complainant was treated unfairly. The MSO recommended that Council not re-post for this position and establish a policy pertaining to the appointment of Boards and/or Committees. The Council decided to accept the recommendations.

Settlement Refusing to Pay Invoice

A Settlement member called to complain about the Settlement not paying the *full amount* of invoices submitted for work completed. The complainant alleged that a Settlement

Councillor adjusted the complainant's invoice without permission.

The MSO *review* found that there was a discrepancy between the complainant's invoice totals and that of the 3rd party company that was actually paying for the work performed. The *review*, however, revealed that Settlement Finance staff adjust all invoices to reflect the time submitted by the 3rd party company on-site monitor. This is because the 3rd party company is the one ultimately paying for the job.

In normal circumstances, the complainant would have to invoice the 3rd party company directly; however, it could take up to six months to receive payment. The Settlement generously advances the funds to provide payment to the Settlement Contractor on behalf of the 3rd party company, to prevent any delay.

The MSO informed the complainant to address the discrepancy directly with the 3rd party company, as this office does not have jurisdiction to look into complaints made about 3rd party companies.

Councillor Accused of Breach of Trust

A complaint was received by a Settlement member that a Councillor was in a *conflict of interest* with respect to changing the bid process after the bid had been closed. A subsequent *review* and then *investigation* by the MSO office revealed that a *possible* Breach of Trust had occurred. As this is a criminal offence, the information gathered by the MSO was handed over to the RCMP for further investigation.

The Councillor was later charged by the RCMP with *Breach of Trust*. (*Individuals are considered innocent until proven guilty.*)

The following caption was recorded by the **Edmonton Journal**. However, it should be noted that the "Métis Ombudsman" did not lay charges as stated in paragraph two. The MSO does not have the authority or jurisdiction to lay charges of any kind. Criminal investigations are the jurisdiction of the RCMP.

A16 SUNDAY, JANUARY 20, 2008

Former Metis councillor charged

Breach of trust alleged in awarding contract

Journal Staff
EDMONTON

A former councillor from the Fishing Lake Metis Settlement has been charged with breach of trust after allegedly awarding a lucrative gravel hauling contract to a company in which he held a financial interest.

Elk Point RCMP and the Metis ombudsman's office laid the single charge against 29-year-old Travis James Daniels on Thursday, seven months after the contract was signed on May 25, 2007.

RCMP Const. Sean McGee said the contract was worth more than \$10,000 and was awarded to K & N Services. Daniels' relationship to the company is not clear.

Daniels is expected to make his first appearance in St. Paul Provincial Court on Feb. 21.

Unfair Deduction of Funds

A Settlement employee received a salary advance and entered into an *Authorization for Deduction and/or Repayment* and also a *Repayment Agreement*.

The *Authorization for Deduction and/or Repayment* noted the sum to be deducted per pay period until the advance was paid in full; an end date was not specified. It also stated that, if not employed with the Settlement, the employee would agree to pay a *certain amount each month*.

The *Repayment Agreement* stipulated that should the employee cease employment with the Settlement, the employee authorized the Settlement to deduct from their final pay cheque, holiday pay, and severance pay to use for payment towards any money owing on the advance. Both agreements were signed by the employee and the Administrator.

When the employee was laid off from casual employment, the Administrator instructed the Finance Department to deduct the entire advance amount owing in a *lump sum* from the final cheque as a safeguard in the event the individual did not work for the Settlement again. The employee felt this decision was unfair and contrary to the signed *Agreement*.

Unfairness was not detected in this complaint as it related to the monies being deducted from the final pay cheque; legally the employee had *an obligation to repay the debt* to the Settlement for the salary advance. It was found, however, that the wording between the two Agreements is not clear and lacks consistency which has, and may lead to, future confusion. The MSO recommended that the Settlement have their Legal Counsel review their *Authorization for Deduction and/or Repayment* and *Repayment Agreements*.

Salary advances are problematic and should not be entered into, unless the debt can be repaid in full by the following pay cheque.

Director of Finance Acting Without Authorization

An MSO Advisor met with a previous Council to discuss a matter involving an alleged wage amount being paid without proper authorization. The prior Council indicated they had no knowledge of the individual being paid an extra hourly amount for services.

A **review** of the matter determined that an additional hourly amount was being paid to the individual while employed in a position with the Settlement. There was a lack of documentation to support the extra duties or to clarify when the increase in wages was to cease. Neither MSO Advisors nor Settlement Administration was able to supply information to resolve the matter. The MSO spoke with the *former* Administrator who indicated that the increase had been budgeted for and had been approved by Council. The MSO had an independent auditing firm investigate this particular complaint, which confirmed the findings of the MSO Advisors.

During the **review** it was discovered that, on many occasions, Council would go "*In Camera*" during meetings and would then fail to make motions on decisions made during these "*In Camera*" discussions when they returned to their regular meeting. This problem was identified to the Council and Administration.

The MSO was unable to find any evidence of wrongdoing by the Director of Finance regarding this matter. The Settlement Council and Administration were provided with

enough information by the MSO Office to deal with the issue. The file was closed.

REQUESTS FOR INFORMATION

Elections

This office does not have the jurisdiction to deal with elections; however we frequently receive calls about these issues, especially in an election year.

Sections 12(1) through 23(1) of the *Métis Settlements Act* deal with Alberta Métis Settlements elections.

There is currently no Métis Settlement agency with jurisdiction to deal with election irregularity complaints.

Appointment of Administrator

A Councillor from a Settlement called the MSO to acquire information. The Councillor was concerned that the appointed Interim Administrator for the Settlement had resigned. The Councillor wanted to know if the Settlement was required to have an Administrator in place or Acting Administrator once the position became vacant.

The Councillor was referred to Section 48 of the *Métis Settlements Act* which states:

"A settlement council must

- a) **appoint a settlement administrator and any other employees considered necessary and fix their remuneration and terms of employment;**
- b) **prescribe what other duties the settlement administrator has in addition to the duties described by this or any other enactment."**

In addition, the MSO Office pointed out that the Settlement's Financial Administration Policy outlines duties of the Administrator and is very clear that an *Administrator's Designate* is to be in place.

The Councillor was referred to the above sections.

Unfair Housing Allocation

A distraught Settlement member applied for housing numerous times over many years but was never awarded housing. Due to being in an abusive relationship, the member left the house which was shared with a spouse. The member was subject to ridicule by the words of the Settlement Chairman who implied, *that if the complainant had stayed in the relationship, the complainant would still have a house*. The alleged comments made by the Chairman were disturbing to say the least. Discriminating comments about marital status or family status can be a violation of *Section 4* of the *Human Rights, Citizenship and Multiculturalism Act*. The complainant was interested in filing a complaint with the Human Rights Commission and was advised on how to do so. An official complaint was not opened with this office.

OMBUDSMAN'S OWN INITIATIVE

Interim President of a Settlement Entity Using Association Funds for Personal Use - Ombudsman's Own Initiative

There were allegations from a number of Settlement members and Board members of a Settlement entity that the Interim President of the entity was charging fuel to the entity for private vehicle use, contrary to the accepted practice of having to obtain a purchase order for authorized expenses.

The *investigation* disclosed that the Interim President purchased fuel fifty times. The Board of Directors had passed a motion authorizing the Interim President to purchase fuel to facilitate work monitoring entity activities. This was done because there was no money to hire staff and the Interim President would not charge for time spent monitoring.

The Interim President advised the Investigators that Board members indicated that, when gas was needed, the individual could sign for it (charge it) without having to produce a purchase order. There were no minutes of meetings from the entity available in order to determine when this motion was made by the Board.

The *investigation* also revealed that the entity issued two cheques for most of these purchases, and two Directors of the entity authorized these purchases by signing the cheques.

Upon speaking with the Directors and the Interim President, and comparing the fuel purchases made, the Investigators did not find any evidence to support the allegations that the Interim President's use of fuel was excessive due to the latitude given by the Board of Directors for purchases.

The MSO recommended that the Board of Directors develop a firm policy regarding the purchase of fuel for private vehicles while on entity business to avoid future allegations of this nature. The MSO also recommended that the entity consider adopting a policy which compensates persons who use their own vehicle for entity business on a cost per kilometer basis similar to the policy which already exists for Board members who attend out-of-town meetings.

**Honorariums Being Paid to Absentee
Board of Directors - Ombudsman's Own
Initiative**

The MSO received a formal complaint that members of a Settlement entity were being paid honorariums for meetings they were not attending. It was alleged by other members that the Executive would call meetings and cheques would be written out prior to the meetings. The cheques were allegedly given out even if there were not enough members present to have a quorum. It was further alleged that cheques were issued to members who did not attend meetings.

The Investigators determined that, in one instance, a meeting was held at a Board member's office. There were not enough members for a quorum; however, cheques were given to the people in attendance at the meeting and later to a Board member who did not attend. This same Board member had previously been given a cheque for a meeting which the Board member did not attend. It was alleged that the same Board member was told by the Interim President to put the cheque against the next meeting of the entity. The Board member has since repaid the outstanding amount and voided the cheque for the meeting the member did not attend.

There were no available hardcopies of minutes for the numerous meetings held between September and March of that fiscal year. The *investigation* revealed that the Recording Secretary received payment for meetings not attended although someone else took minutes for those meetings. It was also noted that on one occasion, the Interim President received an honorarium for a meeting and received additional money for taking the minutes of that same meeting.

Investigators were advised that when a Board member took minutes due to the Recording Secretary not being present, the Board member would not be entitled to both the Board Honorarium and Secretarial pay. If this did happen, the Board member would be expected to pay the money back.

The MSO recommended that:

1. **The Board of Directors of the Settlement entity consider a procedure of issuing honorarium cheques once per month and only after a requisition has been signed, and processed after each authorized meeting.**
2. **The President (or designate) and the Recording Secretary each sign the requisition prior to sending it to the Settlement Finance Department for payment.**
3. **The Board of Directors should clearly define the type of meetings that would result in the paying of honorariums.**
4. **The Board of Directors develop a policy defining whether additional compensation will be paid to Board Members when they assume more than one position at a Board Meeting.**
5. **The Board of Directors recover the overpayment of honorariums from the members that were paid for meetings not attended.**

**Failure to Post Meeting Minutes -
Ombudsman's Own Initiative**

There were a number of allegations that copies of the approved minutes of a Settlement entity's Board of Directors meetings had not been posted.

The *investigation* revealed that the Recording Secretary had the responsibility to record and post the approved minutes of *all* Board meetings on the Notice Board in the Administration Office.

The Recording Secretary stated that minutes had been handwritten and transferred onto a laptop computer which was stolen. As a result, there were only handwritten notes for two meetings. The Settlement entity did not have an office hardcopy filing system; therefore, no historic record of meetings was available for review.

There was evidence that minutes of the Board meetings had been posted in the past, although minutes of the meetings had not been posted for several months. The loss of the Recording Secretary's laptop and the failure to keep hard copies of the entity's minutes in a file made it impossible to re-post previous approved minutes.

The MSO recommended that:

1. **Minutes of all Board of Director Meetings be typed and submitted to the Board of Directors for amendments and approval at the next regularly scheduled meeting of the Board.**
2. **Approved minutes should be posted on the notice board in the Settlement Administration Building for at least 14 days and additional copies should be made available to members upon request.**
3. **Approved minutes should be inserted into a hard covered minute book and signed by the President and one other Board member.**
4. **The minute book should be kept in a secure location that is approved by the Board of Directors.**



Appendix A

Ministerial Order

Excerpt from Ministerial Order #18/2007 Appointment of the Métis Settlements Ombudsman

I, Guy Boutilier, Minister of International, Intergovernmental and Aboriginal Relations, pursuant to s.175.1(1)(a) of the *Métis Settlements Act* and s.4(1) of the *Métis Settlements Ombudsman Regulation*, hereby appoint Gary Jones, the Métis Settlements Ombudsman.

This order comes into force on June 5, 2007 and rescinds Ministerial Order #17/2007.



Article I. ALBERTA REGULATION 116/2007

Métis Settlements Act

MÉTIS SETTLEMENTS OMBUDSMAN REGULATION

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Part 2

Métis Settlements Ombudsman Selection Committee and Transitional Issues

- 13 Committee established
- 14 Transition
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Definitions

- 1 In this Regulation,
 - (a) "Act" means the *Métis Settlements Act*;
 - (b) "investigator" means an investigator appointed under section 7;
 - (c) "Métis Settlements Ombudsman" means the Métis Settlements Ombudsman appointed by the Minister under section 4.

Purpose

- 2 The purpose of this Regulation is to further the attainment of self-governance by Métis settlements under the laws of Alberta while preserving and enhancing Métis culture and identity.



Part 1
Office and Role of the Métis
Settlements Ombudsman

Office of the Métis Settlements Ombudsman

3 The Office of the Métis Settlements Ombudsman is established.

Appointment of the Métis Settlements Ombudsman

- 4(1) The Minister must appoint an individual as Métis Settlements Ombudsman for the term described in section 5(1), or if required, for a term described in section 5(3).
- (2) The Minister, after considering the recommendation of the Métis Settlements Ombudsman Selection Committee established under Part 2, must appoint an individual as Métis Settlements Ombudsman for the term described in section 5(2).
- (3) The individual appointed as Métis Settlements Ombudsman must
- (a) be a Canadian citizen,
 - (b) be of good character,
 - (c) be familiar with Métis history and the history of the settlements in Alberta, and have the capacity to recognize and implement the purpose of this Regulation, and
 - (d) have sufficient integrity, education, qualifications and experience to perform the functions, powers and duties conferred on the Métis Settlements Ombudsman.

Term of office

- 5(1) The term of office of the first Métis Settlements Ombudsman appointed under this Regulation expires 2 years after the effective date of appointment, but that person may be reappointed under subsection (2).
- (2) The term of office of each Métis Settlements Ombudsman appointed after the first Métis Settlements Ombudsman, other than a person appointed under subsection (3), is 5 years, and a person may be reappointed as Métis Settlements Ombudsman any number of times.
- (3) If the Métis Settlements Ombudsman dies, resigns or is removed from office, an individual must be appointed by the Minister under section 4(1) as Métis Settlements Ombudsman for the unexpired period of the term, or for any longer or shorter period the Minister considers appropriate, and section 4(2) does not apply to that appointment.

Removal from office

- 6(1) The Métis Settlements Ombudsman may be removed from office by the Minister for any of the following causes only:
- (a) incapacity;
 - (b) neglect of duty;
 - (c) misconduct;
 - (d) bankruptcy.
- (2) The Minister may establish a process for the purpose of making a decision under subsection (1).

Investigators and other staff

- 7(1) Investigators and other staff necessary for the Office of the Métis Settlements Ombudsman must be appointed by the Métis Settlements Ombudsman and the appointment of investigators and other staff may only be terminated by the Métis Settlements Ombudsman.



- (2) The individual appointed as an investigator must
 - (a) be of good character,
 - (b) unless the Métis Settlements Ombudsman decides that it is unnecessary in particular circumstances, be familiar with Métis history and the history of the settlements in Alberta, and
 - (c) have sufficient integrity, education, qualifications and experience to perform the functions, powers and duties of an investigator.

Authority of Métis Settlements Ombudsman and investigators

- 8(1) The Métis Settlements Ombudsman and investigators are each authorized to perform all or any of the functions, powers and duties of an investigator under sections 171 to 175 of the Act with respect to
 - (a) a settlement, or
 - (b) an entity that is directly or indirectly controlled by a settlement council or by persons who are employees or officials of a settlement.
- (2) The exercise of authority by an investigator is subject to the direction and control of the Métis Settlements Ombudsman.

Ombudsman authorized to perform Ministerial powers

- 9 The Métis Settlements Ombudsman is authorized to perform all or any of the functions, powers and duties of the Minister under sections 171 to 175 of the Métis Settlements Act, except for the authority under section 172(2) of the Act, with respect to
 - (a) a settlement, or
 - (b) an entity that is directly or indirectly controlled by a settlement council or by persons who are employees or officials of a settlement.

Referring matters to the Métis Settlements Ombudsman

- 10(1) Recognizing the purpose of this Regulation, the Métis Settlements Ombudsman is authorized to make rules governing and dealing with
 - (a) the manner in which matters are to be referred to the Métis Settlements Ombudsman and by whom, and
 - (b) the process or processes for dealing with those matters.
- (2) The Métis Settlements Ombudsman must distribute copies of the rules referred to in subsection (1) to the Minister, General Council, settlement councils and any other person that the Métis Settlements Ombudsman considers appropriate.

Internal management and operation

- 11(1) Recognizing the purpose of this Regulation, the Métis Settlements Ombudsman is authorized to make rules respecting the internal management and operation of the Office of the Métis Settlements Ombudsman.
- (2) The Métis Settlements Ombudsman must distribute copies of the rules referred to in subsection (1) to the Minister, General Council, settlement councils and any other person that the Métis Settlements Ombudsman considers appropriate.

Reports

- 12(1) The Métis Settlements Ombudsman must
 - (a) make an annual report of the activities of the Office of the Métis Settlements Ombudsman each year to the Minister, General Council, settlement councils and to any other person that the Métis Settlements Ombudsman considers necessary, and
 - (b) make any other report that the Minister requires.



- (2) The Métis Settlements Ombudsman may make any report to the Minister, General Council, a settlement council or any other person that the Métis Settlements Ombudsman considers necessary or appropriate.

Part 2

Métis Settlements Ombudsman Selection Committee and Transitional Issues

Committee established

- 13(1) The Métis Settlements Ombudsman Selection Committee is established for the purpose of making a recommendation to the Minister under section 4(2).
- (2) The Métis Settlements Ombudsman Selection Committee consists of 3 persons who are appointed as follows:
- (a) one person is to be appointed by the Minister;
 - (b) one person is to be appointed by the General Council;
 - (c) one person is to be appointed jointly by the members appointed under clauses (a) and (b).
- (3) If the General Council fails to make the appointment under subsection (2)(b) within 30 days after a request from the Minister to do so, the Minister may make the appointment.
- (4) If the 2 members appointed under subsection (2)(a) and (b) are unable to agree on a person to be appointed as the 3rd member under subsection (2)(c), the Minister must make the appointment.
- (5) The members of the Métis Settlements Ombudsman Selection Committee must appoint a chair from among them.
- (6) If the Métis Settlements Ombudsman Selection Committee is unable to make a recommendation on the appointment of an individual as the Métis Settlements Ombudsman, the Minister may act alone.
- (7) The mandate of the members of the Métis Settlements Ombudsman Selection Committee ends once a recommendation is made under section 4(2) unless the Minister otherwise directs.

Transition

- 14(1) The Métis Settlements Ombudsman is the successor to Harley Johnson in his capacity as a person authorized to exercise or perform the powers and duties conferred on the Minister under the Ministerial Order dated April 14, 2003.
- (2) In particular, and without limitation,
- (a) the rules, policies, procedures and protocols of Harley Johnson acting under the Ministerial Order are the rules, policies, procedures and protocols of the Métis Settlements Ombudsman,
 - (b) a complaint made to Harley Johnson, acting under the Ministerial Order, whether or not investigated or reported on before this Regulation comes into force, is a complaint made to the Métis Settlements Ombudsman,
 - (c) a review, investigation, inspection, audit or activity ongoing under the authority of the Ministerial Order is a review, investigation, inspection, audit or activity of the Métis Settlements Ombudsman, and
 - (d) all files, records, information, audits, data, complaints, reports or material in the possession or under the control of Harley Johnson in his capacity acting under the Ministerial Order, is to be provided to and is in the possession and under the control of the Métis Settlements Ombudsman.



Expiry

- 15 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on May 31, 2014.

Coming into force

- 16 This Regulation comes into force on June 4, 2007.

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Appendix C

Budget Variance Report

Office of the Métis Settlements Ombudsman
as of March 31, 2008

	Budget Allocation	Expenditure	Balance
Staff	\$ 420,000.00	\$ 406,984.08	\$ 13,015.92
Accounting	\$ 24,000.00	\$ 23,476.78	\$ 523.22
Communications	\$ 11,000.00	\$ 15,631.59	\$ (4,631.59)
Equipment Rentals/Lease	\$ 2,200.00	\$ 1,895.61	\$ 304.39
External Contractors	\$ 500.00	\$ -	\$ 500.00
Insurance	\$ 4,200.00	\$ 7,171.10	\$ (2,971.10)
Interest/Bank Charges	\$ 50.00	\$ 568.58	\$ (518.58)
IT Support	\$ 6,000.00	\$ 6,000.00	\$ -
Legal	\$ 14,000.00	\$ 18,678.16	\$ (4,678.16)
Maintenance/Repairs	\$ 400.00	\$ 383.16	\$ 16.84
Office Supplies	\$ 6,500.00	\$ 6,762.93	\$ (262.93)
Outreach	\$ 4,500.00	\$ 4,217.34	\$ 282.66
Postage/Courier	\$ 100.00	\$ -	\$ 100.00
Telephones/Internet	\$ 8,000.00	\$ 8,280.76	\$ (280.76)
Training & Development	\$ 6,590.00	\$ 6,404.39	\$ 185.61
Travel	\$ 24,000.00	\$ 8,100.52	\$ 15,899.48
Vehide Lease	\$ 10,000.00	\$ 8,673.19	\$ 1,326.81
Vehide Maintenance & Repair	\$ 2,000.00	\$ 2,110.25	\$ (110.25)
Vehide Parking/Building	\$ 960.00	\$ 988.00	\$ (28.00)
TOTAL	<u>\$ 545,000.00</u>	<u>\$ 526,326.44</u>	<u>\$ 18,673.56</u>
*Special Investigations	\$ 271,000.00	\$ 186,599.77	\$ 84,400.23

Note:

* Special Investigations occur when outside investigators are appointed by the MSO under the *Métis Settlements Act* to perform independent investigations.

There was insufficient time to complete some of the investigations entered into in this fiscal year -- thus the carry-over of Special Investigations funding. These investigations are continuing in the new (2008/09) fiscal year.



Administrative Fairness Checklist

Introduction

An important step along the road to self governance and self regulation of Alberta's eight Métis Settlements is the confidence that everyone is treated fairly and with respect, especially when dealing with Councillors, decision makers and persons in positions of authority.

Checklist

This Administrative Fairness Checklist is prepared to guide Council, Settlement employees, Settlement entities, decision makers and Settlement members in their daily business with each other. Answering the following questionnaire honestly will help you decide whether business on your Settlement is being conducted as fairly as possible. This Checklist is a living document that will change from time to time as the need arises.

Fairness:

- ✓ Is all Settlement business conducted in a fair and transparent manner?

Understanding the Process:

- ✓ Do Councillors, Settlement employees, and decision makers ensure that everyone understands their roles and responsibilities?

Impartiality:

- ✓ Do Councillors, Settlement employees, and decision makers make decisions based on what is in the best interest of the Settlement as a whole, eliminating self-interest?

Professional Conduct:

- ✓ Do Councillors, Settlement employees, and decision makers treat everyone with dignity and respect?
- ✓ Do members treat Councillors, Settlement employees, and decision makers with dignity and respect?
- ✓ Is unprofessional or inappropriate (unethical, unprincipled, immoral, or dishonourable) conduct allowed to occur?
- ✓ Do Councillors, Settlement employees, and decision makers utter public remarks that are inappropriate?
- ✓ Do Councillors or decision makers threaten or bully employees or Settlement members?
- ✓ Is the use of profane language tolerated?
- ✓ Are policies in place to make offenders of unprofessional or inappropriate conduct accountable for their actions?
- ✓ Do Councillors, Settlement employees, and decision makers misuse or abuse their positions?

The Right to Voice a Concern:

- ✓ Are you aware that everyone has the right to voice a concern without fear of punishment or negative consequence?
- ✓ Are you also aware that punishing or allowing negative consequences to occur to someone that has voiced a concern is a serious breach of administrative fairness and/or the Canadian Charter of Rights and Freedoms?

Public Information:

- ✓ Is public information available in a format that is understandable and written in plain language?

Clarification:

- ✓ Are adequate explanations given to, or information provided to, members asking for details about Settlement activities, personal entitlements, eligibility criteria, etc.?
- ✓ Are efforts made to refer members to the appropriate agencies?



Forms:

- ✓ Are all forms that require completion easy to read and written in plain language?

Freedom of Information and Protection of Privacy (FOIP):

- ✓ Are FOIP forms available upon a member's request?
- ✓ Is the privacy of individuals adequately protected?

Letters and Correspondence:

- ✓ Are members' concerns being responded to in a timely fashion in the form of a letter that can clearly be understood?

Facilities:

- ✓ Are work places on the Settlement a safe and healthy environment for staff?
- ✓ Are Settlement-owned buildings and offices designed to respect and protect the privacy of Settlement members, outside agencies, staff, and confidential information?

Timeliness:

- ✓ Are decisions made and actions taken within a reasonable time period?
- ✓ Are adequate reasons for decisions and actions communicated to or provided to the affected parties in a meaningful and timely way?

Complaint Procedures:

- ✓ Are complaint procedures well known, clearly defined, and understandable?
- ✓ Are community suggestions for improving complaint procedures acted upon?
- ✓ Are complaints given careful consideration and responded to in a timely fashion?

Appeal Review and Complaint Procedure:

- ✓ Are affected individuals informed about ways to appeal or to request a review regarding decisions made or actions taken?
- ✓ Is this information provided in a polite, respectful way?
- ✓ Are Settlement members aware of these rights through posters and/or brochures?

Roles and Responsibilities:

- ✓ Do all Settlement positions have clearly defined job descriptions?
- ✓ Do the job titles accurately describe the work done?
- ✓ Can jobs be combined or re-organized to achieve a higher quality or better delivery of services?

Coordination:

- ✓ Could service quality and fairness to Settlement members be improved through adjustments in policies and procedures?
- ✓ Could relationships with other partners, outside communities, and government agencies be made better through adjustments to policies and procedures?
- ✓ What procedures or checks and balances are in place to ensure that work is being done in the way it was originally intended?
- ✓ Is there an attitude in the work place that promotes growth, change, and ongoing improvement?

Consultation with Settlement Members:

- ✓ Are systems in place that accurately record and organize statistical information so that changes in programs or policies can be evaluated and adjusted if necessary?
- ✓ Are Settlement members invited to take part in the planning of, or changes to, the way the Settlement operates?

Housing:

- ✓ Is the distribution/allocation of Settlement housing fair?
- ✓ Do all eligible Settlement members have equal opportunity to receive Settlement housing?
- ✓ Is there clearly defined selection criteria established to receive housing?



- ✓ Are the selection criteria available to the applicants?
- ✓ Are unsuccessful applicants being notified in writing as to why they were not selected?

Jobs:

- ✓ Are members given an equal opportunity to compete for Settlement jobs?
- ✓ Are contracts and work distributed fairly amongst Settlement members?
- ✓ Are Settlement policies being followed in the hiring process?

Revised: February 2008



Conflict of Interest Checklist

Introduction

All members of a Métis Settlement Community are entitled to a governance structure that operates with fairness, integrity and impartiality of decision-making. Public trust is damaged when the private interests of an elected official or an employee takes, or appears to take, priority over the public interest, thus leading to a *conflict of interest* or a perceived *conflict of interest*.

Checklist

This Conflict of Interest Checklist is prepared to guide Councils, Settlement employees, decision makers, and Settlement members in their daily business with each other. Answering the following questionnaire honestly will help you decide whether business on your Settlement is being conducted in an appropriate manner. This Checklist is a living document that will change from time to time as the need arises.

Definitions:

Conflict of Interest: arises when decision makers (Councillors, Settlement employees, Settlement entity employees) are involved in a decision or action during the course of their public duties, knowing that there is, or may be, an opportunity to further his/her personal or financial interests or those of an immediate family member.

Perceived Conflict of Interest: arises when a reasonable person could believe that the decision-maker's judgment is likely to be affected by a private interest.

Potential Conflict of Interest: is something that may develop into an actual *conflict of interest*.

Immediate Family: means spouse, father, mother, brother, sister, and children.

Conflict of Interest Policy:

- ✓ Is there Settlement policy and/or guidelines regarding *conflict of interest* and, if so, is it followed?
- ✓ Are these policy/guidelines consistent with the *Métis Settlements Act* and/or policies developed by the Métis Settlements General Council?
- ✓ Does Council or Administration ensure that all Settlement managers, employees, and decision makers are made aware of the *conflict of interest* policy and guidelines?
- ✓ What actions are required by public office holders?
 - a) In all cases, the Settlement member who holds a public office is responsible to take immediate action if he/she suspects that an actual, perceived or potential *conflict of interest* is possible, whether financial or otherwise.
 - b) Section 39 of the *Métis Settlements Act* requires a Councillor to disclose any real or apparent financial *conflict of interest* to the Council. If the matter before Council is to be decided by a resolution, the Councillor must withdraw from further discussion, voting, or involvement.
 - c) A Settlement employee is required to immediately disclose a possible *conflict of interest* to his/her supervisor if the employee is in a conflict. The employee must withdraw from any further involvement or action on the matter.

Examples of Conflict of Interest:

While it is not possible to predict all *conflict of interest* situations, you can use the following headings and questions to help identify where most *conflict of interest* situations could occur.



Furthering Private Interests:

- ✓ Does an immediate family member stand to gain or lose financially from the individual's or the organization's decision or action in a matter?
- ✓ Is a Councillor, Settlement employee, or decision maker using his/her position to influence a decision, knowing it might benefit an immediate family member?
- ✓ Is a Councillor, Settlement employee, or decision maker using or communicating privileged or confidential information, knowing it might benefit an immediate family member?
- ✓ Does a Councillor, Settlement employee, or decision maker use his/her position to influence a decision or an action, knowing that it may benefit, or appear to benefit, an immediate family member?

Nepotism:

- ✓ Is a Councillor, Settlement employee, or decision maker involved in making a decision to grant a home or renovation to an immediate family member?
- ✓ Is a Councillor, Settlement employee, or decision maker involved in interviews or hiring decisions where applicants include immediate family members?

Acceptance of Gifts, Gratuities or Other Benefits:

- ✓ Does a Councillor, Settlement employee, or decision maker accept favours, gifts, services or hospitality from those who stand to gain or lose from that individual's or the organization's decision or action?

Note: This does not prevent acceptance of small gifts of little value or of a cultural nature or from publicly being recognized for good work.

Outside Employment:

- ✓ Do immediate family members of Councillors or Settlement employees gain or appear to gain an unfair advantage over other Settlement members in obtaining contracts or other outside employment due to their access to privileged information?
- ✓ Does a Councillor, Settlement employee, or decision maker conduct private business during working hours to the extent that it interferes with his/her public duty?
- ✓ Does a Councillor, Settlement employee, or decision maker use public premises, equipment or supplies for private use without appropriate authorization?
- ✓ Does a Councillor, Settlement employee, or decision maker use their public role to advance their own private interests in any way?

Public Statements:

- ✓ Does a Councillor, Settlement employee, or decision maker disclose private or confidential information to those who are not authorized to receive it?

Note: These actions may also be governed by Freedom of Information and Protection of Privacy (FOIP).

Volunteer Activities:

- ✓ Do volunteer activities take up time during working hours?

Note: Individuals are encouraged to participate in volunteer activities unless this causes an actual or perceived conflict of interest.

General Questions to Consider

- ✓ Are the decisions you make as a Councillor, Settlement employee, or decision maker in the best interests of the Settlement as a whole or are they self-serving?
- ✓ Have you made decisions or taken an action that you are not proud of?

Revised: February 2008

